

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT, E.D.N.Y.

★ AUG 22 2005 ★

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OLEG ZHITNIKOV,

BROOKLYN OFFICE

Plaintiff,

**STIPULATION AND  
ORDER OF  
SETTLEMENT AND  
DISMISSAL**

-against-

THE CITY OF NEW YORK, POLICE OFFICERS  
"JOHN DOE" and "JANE DOE," said names being  
fictitious and presently unknown, and POLICE  
OFFICER JOHN A. GIRDUSKY,

04 CV 2299 (JBW) (SMG)


Defendants.  
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**WHEREAS**, plaintiff commenced this action by filing a complaint on June 4, 2004, alleging violations of his civil rights pursuant to federal and New York State laws; and

**WHEREAS**, defendants City of New York and John Girdusky have denied any and all liability arising out of plaintiff's allegations; and

**WHEREAS**, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.
  2. The City of New York hereby agrees to pay plaintiff the sum of Twenty-Five Thousand Dollars (\$25,000.00) in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees. In consideration for the payment of this sum, plaintiff agrees to
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dismissal of all of the claims against the named defendants and to release the defendants, and any present or former employees or agents of the City of New York, the New York City Police Department, and any other agency of the City of New York, from any and all liability, claims, or rights of action arising from and contained in the complaint in this action, including claims for costs, expenses and attorneys' fees.

3. Plaintiff shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a release based on the terms of paragraph "2" above and an Affidavit of No Liens.

4. Nothing contained herein shall be deemed to be an admission by defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

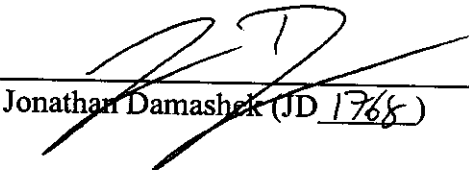
5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or the New York City Police Department.

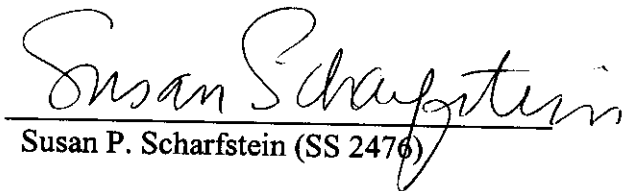
6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York  
July 28, 2005

JONATHAN DAMASHEK, ESQ.  
Attorneys for Plaintiff  
Hecht, Kleeger, Pintel & Damashek  
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New York, NY 10007  
(212) 227-4071

By:   
Jonathan Damashek (JD 1768)

By:   
Susan P. Scharfstein (SS 2476)

SØ ORDERED:

  
JACK B. WEINSTEIN, U.S.D.J.  
8/5/05



MICHAEL A. CARDOZO  
Corporation Counsel

THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
100 CHURCH STREET  
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August 2, 2005

**BY ECF AND FIRST-CLASS MAIL**

Honorable Jack B. Weinstein  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

8/2/05

Re: Zhitnikov v. City of New York, et al., 04 CV 2299 (JBW) (SMG)

Dear Judge Weinstein:

I am an attorney in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendants City of New York and John Girdusky in the above-referenced action.

Enclosed is an original Stipulation and Order of Settlement and Dismissal that has been executed by the parties. I ask that the Court "So Order" it so that the settlement can be processed and the matter closed.

Thank you for your consideration herein.

Respectfully submitted,

/S/

Susan P. Scharfstein (SS 2476)

Enclosure

cc: Honorable Steven M. Gold (by ECF and first-class mail w/copy)  
Jonathan Damashek, Esq. (by ECF and first- class mail w/original)